




ADMINISTRATIVE MEMORANDUM NO. 18 - 293

DATE: July 24, 2018

TO: Planning and Zoning Board

VIA: David L. Recor, Director of Development Services 
Jennifer Gomez, AICP, Assistant Director of Development Services 

FROM: Jean E. Dolan, AICP, Principal Planner 

RE: Amendments to Chapter 154 and 155 Related to Comprehensive Plan Advertising Requirements; and Airpark Zoning Amendments to Address FDOT Comments in Regard to Compliance with Chapter 333 F.S.

P&Z August 22, 2018

Comprehensive Plan Advertising Related Amendments

Staff has recently identified some confusion regarding the Comprehensive Plan related advertising requirements in Chapter 163 F.S. (which addresses published notice) and Chapter 154 of the city's code (which addresses mailed notice). The amendments provided with this report are meant to clear up that confusion and standardize the advertising requirements for all types of Comprehensive Plan amendments. The State Statute permits less stringent published notice requirements for small scale amendments (less than 10-acres) but the cities can always create regulations that are more rigorous than state law. For this reason, staff is proposing to advertise both small and large scale Comprehensive Plan amendments the same way to avoid confusion. The proposed changes have been made to both Chapter 154 and also incorporated into Table 155.2305.C Public Hearing Notice Requirements so that all of the notice requirements are consolidated in one place in the Code.

Airpark Overlay Zone and Obstruction Permit Related Amendments

The remainder of the code amendments in this package are to "increase conformity" with Chapter 333 F.S. which addresses the local government requirement for airport zoning and obstruction permitting. On July 25, 2017, via Ordinance 2017-60, the city created Section 155.2422, Airpark Obstruction and amended the existing Airpark Overlay (APO) District regulations in Section 155.3707, in response to the 2016 amendments to Chapter 333 F.S. that deals with airport zoning regulations. As required by Chapter 333, these additions and amendments to the city's code were provided to FDOT for review and

acceptance. FDOT provided some general comments on the city's code and suggested we revise the adopted code to provide "further compliance" with Chapter 333. The suggestion was to go through each regulation in Chapter 333 and find its equivalent in the city's code. This task has been completed and the resulting code amendments are attached. To assist in the review of these amendments, staff has attached Chapter 333, F.S. with the reference to the city's code provided to show compliance with all applicable regulations.

To provide a fuller context for the review of these regulations, staff has included significantly more of the text that is *not changing* than is typical when making minor code amendments. This is to help staff, the P&Z board and the FDOT reviewer to have confidence that the regulations are complete and meet the intent of Ch. 333.

Recommendation: Since the purpose of these code amendment have two distinct and separate purposes, staff recommends two motions on these amendments.

(1) Staff requests the Board recommend approval of the proposed amendments to the attached sections of Chapters 154 and 155 to clarify the advertising requirements for Comprehensive Plan Amendments.

(2) Staff requests the Board to recommend approval for the proposed amendments to Chapter 155 to increase compliance with Chapter 333 related to airpark obstruction permitting and airpark zoning.

PROPOSED CODE AMENDMENTS

**COMPREHENSIVE PLAN NOTICE REQUIREMENTS AND
COMPLIANCE WITH CHAPTER 333 F.S. AIRPORT ZONING**

§ 154.08 COMPREHENSIVE PLAN AMENDMENTS.

(A) The procedure for amendment of the adopted comprehensive plan, element, or portion thereof, shall be in compliance with the process as set forth in F.S. § 163.3184 (Process for adoption of comprehensive plan or plan amendment), as amended.

(B) Each proposal for an amendment to the comprehensive plan shall be accompanied by a review fee as established by the City Commission by ordinance to be placed in the general fund of the city.

(C) In addition to the standards required in F.S. § 163.3184, applicants for Future Land Use Plan map amendments of any size shall provide noticing of the public hearings as follows:

(1) The first hearing shall be held by the Local Planning Agency with due public notice on each proposal for amendment to the city or county land use plan. A notice of the time and place of the hearing shall be mailed to all real property owners within 500 feet of the land proposed to be amended to another land use classification. The notice shall be mailed at least ten calendar days prior to the date of the hearing.

~~(2) Any application submitted to the city for an amendment to the Land Use Plan which is consistent with the criteria for small scale developments established in F.S. § 163.3187 shall provide notice of public hearings in accordance with the following procedures:~~

~~—— (a) A notice of the time and place of the hearings shall be mailed to all real property owners and municipalities within 500 feet of the land proposed to be amended to another land use classification. The notice shall be mailed at least ten days prior to the date of the hearing.~~

~~—— (b) Notice of all public hearings shall be published pursuant to the notice and advertising requirements for amendments related to small scale developments as established in F.S. Chapter 163, as may be amended from time to time.~~

(‘58 Code, § 41.17) (Ord. 76-32, passed 3-2-76; Am. Ord. 79-36, passed 1-30-79; Am. Ord. 82-38, passed 3-9-82; Am. Ord. 87-48, passed 6-2-87; Am. Ord. 90-27, passed 2-6-90; Am. Ord. 93-40, passed 4-27-93; Am. Ord. 95-15, passed 11-8-94; Am. Ord. 2014-19, passed 2-11-14)

155.2305. PUBLIC HEARING SCHEDULING AND NOTICE

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TABLE 155.2305.A: REQUIRED PUBLIC HEARINGS					
S = STANDARD PUBLIC HEARING Q = QUASI-JUDICIAL PUBLIC HEARING					
APPLICATION TYPE ¹	BODY CONDUCTING PUBLIC HEARING				
	HISTORIC PRESERVATION COMMITTEE	ARCHITECTURAL APPEARANCE COMMITTEE	PLANNING AND ZONING BOARD	ZONING BOARD OF APPEALS	CITY COMMISSION
Text Amendment proposing to revise Use Table			S		S, S ²
Text Amendment proposing any other changes			S		S, S ²
City-initiated General Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving 10 or more contiguous acres			S		S, S ²
City-initiated Site-Specific Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving 10 or more contiguous acres			Q		Q, Q ²
City-initiated General Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving less than 10 contiguous acres			S		S, S ²
City-initiated Site-Specific Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving less than 10 contiguous acres			Q		Q, Q ²
General Zoning Map Amendment (Rezoning) initiated by other than the city			S		S, S ²
Site-Specific Zoning Map Amendment (Rezoning) initiated by other than the city			Q		Q, Q ²
Planned Development			Q		Q, Q ²
Special Exception				Q	

TABLE 155.2305.A: REQUIRED PUBLIC HEARINGS					
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	HISTORIC PRESERVATION COMMITTEE	ARCHITECTURAL APPEARANCE COMMITTEE	PLANNING AND ZONING BOARD	ZONING BOARD OF APPEALS	CITY COMMISSION
Major Certificate of Appropriateness	Q				
Plat			Q		Q
Major Temporary Use Permit				Q	
Interim Use Permit				Q	
Variance				Q	
Major Administrative Adjustment			Q		
Appeal of a decision on an application for:	Special Exception				Q
	Major Site Plan				Q
	Major Building Design				Q
	Major Certificate of Appropriateness				Q
	Minor Building Design		Q		
	Minor Certificate of Appropriateness	Q			
	Interim Use Permit				Q
	Variance				Q
	Interpretation			Q	
	Airport Obstruction		Q		
Placement on Local Register of Historic Places	Q				
Development Agreement			S		S

TABLE 155.2305.A: REQUIRED PUBLIC HEARINGS					
S = STANDARD PUBLIC HEARING Q = QUASI-JUDICIAL PUBLIC HEARING					
APPLICATION TYPE ¹	BODY CONDUCTING PUBLIC HEARING				
	HISTORIC PRESERVATION COMMITTEE	ARCHITECTURAL APPEARANCE COMMITTEE	PLANNING AND ZONING BOARD	ZONING BOARD OF APPEALS	CITY COMMISSION
Takings or Vested Rights Determination [placeholder]					
Right-of-Way or Easement Vacation or Abandonment			Q		Q
NOTES:					
1. This table depicts only those applications for a development permit for which a public hearing is required.					
2. The City Commission holds two public hearings on these applications.					

B. Scheduling Public Hearings

1. If an application is subject to a public hearing (See [Table 155.2305.A: Required Public Hearings.](#)), the Development Services Director shall ensure that the public hearing on the application is scheduled for either a regularly scheduled meeting of the body conducting the hearing or a meeting specially called for that purpose by the body conducting the hearing.

2. The public hearing on the application shall be scheduled so there is sufficient time for preparation of a staff report and satisfaction of the public notice requirements in this Code and under state law.



C. Public Hearing Notice

I. General Notice Requirements

Public notice of the public hearing on an application shall be required as shown in [Table 155.2305.C: Public Hearing Notice Requirements](#), for the type of application and the type of notice. In computing the time periods prescribed for notices, the day the notice is published or postmarked shall not be included, but the day of the hearing shall be included.

 **TABLE 155.2305.C: PUBLIC HEARING NOTICE REQUIREMENTS ¹**

Note: This table is best viewed in PDF, click [HERE](#)

TABLE 155.2305.C: PUBLIC HEARING NOTICE REQUIREMENTS ¹ CC = City Commission ZBA = Zoning Board of Appeals P&Z = Planning and Zoning Board AAC = Architectural Appearance Committee HPC = Historic Preservation Committee			
Application Type	Notice Requirement		
	Timing of Published Notices	Mailed Notices	
		Timing	Recipients
Comprehensive Plan Map Amendment (large scale and small scale)	<ul style="list-style-type: none"> • Publish newspaper notice at least 10 days before the P&Z Board hearing date. • Publish newspaper notice of least 7 days before the City Commission Transmittal hearing date. • Publish newspaper notice of least 5 days before the Adoption hearing date. 	<ul style="list-style-type: none"> • Mail notice of the P&Z public hearing at least 10 calendar days before the hearing date (per City Code Ch. 154.08(C)(1)) 	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application • Owners of real property within 500 ft of the parcel(s) subject to the application ⁴ • Local planning agency of the adjacent municipality, if its jurisdictional boundary lies within 500 ft of the parcel(s) subject to the application
Residential and NonResidential Flexibility Allocations	<ul style="list-style-type: none"> • Publish newspaper notice of least 5 calendar days before the P&Z hearing per Ch. 154.61(C)(3). • Publish newspaper notice of least 10 calendar days before the City Commission hearing per Ch. 154.61(C)(4). 	<ul style="list-style-type: none"> • Mail notice of the P&Z public hearing at least 6 business days before the hearing date (per City Code Ch. 154.61(C)(3)) • Mail notice of the City Commission public hearing at least 10 calendar days before the hearing date (per City Code Ch. 154.61(C)(4)) 	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application • Owners of real property within 500 ft of the parcel(s) subject to the application ⁴ • Local planning agency of the adjacent municipality, if its jurisdictional boundary lies within 500 ft of the parcel(s) subject to the application
Text Amendment proposing to revise Use Table	<ul style="list-style-type: none"> • Publish notice of the first CC public hearing at least 7 calendar days before the hearing date • Publish notice of the second CC public hearing at least 5 calendar days before the hearing date 		
Text Amendment proposing any other changes	Publish notice of the CC public hearing at least 10 calendar days before the hearing date		
City-initiated General Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving 10 or more contiguous acres	<ul style="list-style-type: none"> • Publish notice of the first CC public hearing at least 7 calendar days before hearing date 		
City-initiated Site -Specific Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving 10 or more contiguous acres	<ul style="list-style-type: none"> • Publish notice of the second CC public hearing at least 5 calendar days before the hearing date 		

TABLE 155.2305.C: PUBLIC HEARING NOTICE REQUIREMENTS ¹
CC = City Commission ZBA = Zoning Board of Appeals P&Z = Planning and Zoning Board
AAC = Architectural Appearance Committee HPC = Historic Preservation Committee

Application Type	Notice Requirement		
	Timing of Published Notices	Mailed Notices	
		Timing	Recipients
City-initiated General Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving less than 10 contiguous acres	<ul style="list-style-type: none"> • Publish notice of the P&Z public hearing at least 5 calendar days before the hearing date • Publish notice of the CC public hearing at least 10 calendar days before the hearing date 	<ul style="list-style-type: none"> • Mail notice of the P&Z public hearing at least 6 business days before the hearing date • Mail notice of the first CC public hearing at least 30 calendar days before the hearing date 	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application • Owners of real property within 500 ft of the parcel(s) subject to the application ^{5,4} • Local planning agency of the county or adjacent municipality, if its jurisdictional boundary lies within 500 ft of the parcel(s) subject to the application
City-initiated Site -Specific Zoning Map Amendment (Rezoning) proposing to reclassify parcel(s) involving less than 10 contiguous acres			
General Zoning Map Amendment (Rezoning) initiated by other than the city		<ul style="list-style-type: none"> • Mail notice of the P&Z public hearing at least 6 business days before the hearing date • Mail notice of the first CC public hearing at least 10 calendar days before the hearing date 	
Site -Specific Zoning Map Amendment (Rezoning) initiated by other than the city			
Planned Development			
Special Exception	Publish notice of the public hearing at least 5 calendar days before the hearing date	Mail notice of the public hearing at least 6 business days before the hearing date	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application • Owners of real property within 500 ft of the parcel(s) subject to the application ^{5,4} • Local planning agency of the county or adjacent municipality, if its jurisdictional boundary lies within 500 ft of the parcel(s) subject to the application
Variance			
Major Administrative Adjustment			
Major Certificate of Appropriateness			
Major Temporary Use Permit			
Interim Use Permit			
Appeal ²		Mail notice of the public hearing at least 6 business days before the hearing date	
Placement on Local Register of Historic Places		Mail notice of the public hearing at least 10 calendar days before the hearing date	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application
Development Agreement	<ul style="list-style-type: none"> • Publish notice of the P&Z public hearing at least 7 calendar days before the hearing date; • Publish notice of the CC public hearing at least 7 calendar days before the hearing date 	Mail notice of the P&Z public hearing at least 7 calendar days before the hearing date ³	<ul style="list-style-type: none"> • Applicant • Owner(s) of land subject to the application • Owners of real property abutting the parcel(s) subject to the application ⁴ • Local planning agency of the county or an adjacent municipality; if its jurisdictional boundary abuts the parcel(s) subject to the application

TABLE 155.2305.C: PUBLIC HEARING NOTICE REQUIREMENTS ¹
CC = City Commission ZBA = Zoning Board of Appeals P&Z = Planning and Zoning Board
AAC = Architectural Appearance Committee HPC = Historic Preservation Committee

Application Type	Notice Requirement		
	Timing of Published Notices	Mailed Notices	
		Timing	Recipients
Takings or Vested Rights Determination [placeholder]			
Right-of-Way or Easement Vacation or Abandonment	Publish notice of the CC public hearing at least 10 calendar days before the hearing date	Mail notice of the P&Z public hearing at least 10 calendar days before the hearing date	<ul style="list-style-type: none"> • Applicant • Owners of real property abutting the portion of a right-of-way or easement subject to the application or that would lose a means of vehicular access as a result of the proposed vacation or abandonment ⁴

NOTES:

1. This table depicts only those applications for a development permit for which a public hearing is required.
2. Notice requirements for appeals apply to all appeals, including appeals to the HPC, AAC, ZBA, and City Commission.
3. Mailed notice of the P&Z public hearing alone is required, provided the day, time, and place of the City Commission's public hearing is announced at the P&Z public hearing.
4. Where adjacent properties are part of a townhouse, condominium, or timeshare development, the notice may be mailed to the president or manager of the property owners association instead of individual unit owners.

2. Published Notice Requirements

The Development Services Director shall cause a required notice of a public hearing on an application to be prepared and published in a newspaper having general circulation in the city.



3. Mailed Notice Requirements

The Development Services Director shall cause a required notice of a public hearing on an application to be prepared and mailed via first-class mail to those persons listed in [Table 155.2305.C](#), Public Notice Requirements, as mailed notice recipients for the particular type of application.

4. Notice Content

Required public notices shall, at a minimum:

- Identify the application;
- Identify the size of the land subject to the application;
- Identify the location of the land subject to the application by street address or by its relationship to a fronting street and nearest cross street, if applicable (not applicable to notices posted on the subject property);
- Describe the nature and scope of the proposed development or action;
- Identify the date, time, and location of the public hearing or appeal being noticed, and state that interested persons or aggrieved parties may appear at the hearing or appeal (as appropriate) and speak and submit evidence and written comments on the application;
- Indicate how and where written comments on the application or appeal may be submitted before the hearing; and
- Indicate how and where additional information about the application or appeal and review process may be obtained; and
- Comply with any notice content requirements established by state law.

5. Posted Sign Notice for Rezoning Applications

For all Rezoning Application types, including General Zoning Map Amendment, Site-Specific Zoning Map Amendment, and Planned Development, the following shall be required:

- A four foot by four foot sign with large lettering shall be placed upon the property by city personnel at least five days prior to the scheduled hearing before the Planning and Zoning Board and removed by city personnel upon final disposition (or earlier applicant withdrawal) of such rezoning request by the City Commission;
- One said sign shall be placed adjacent to each street or thoroughfare abutting the property.
- The lettering shall read: "Rezoning of this property is under consideration. For information call City of Pompano Beach, City Hall, telephone: 954-786-4600."

6. Affidavit of Notice

The Development Services Director shall prepare and sign an affidavit affirming that public notice meeting the requirements of this subsection was provided. Such an affidavit shall be conclusive that required notice was given in accordance with the terms of this subsection.

7. Finding of Substantial Compliance with Notice Requirements

If questions arise at the public hearing regarding the adequacy of notice, the body conducting the hearing shall direct the Development Services Director to make a formal finding as to whether there is substantial compliance with the notice requirements of this Code, and such findings shall be made available to the decision-making body before final action on the application.

D. Requests to Defer Public Hearing

1. Before Public Hearing Notice

If an application is subject to a public hearing and required notice of the hearing has not yet been provided, the applicant may submit a written request to defer the public hearing to the Development Services Director, who may grant the request for good cause.

2. After Public Hearing Notice

a. If an application is subject to a public hearing and required notice of the hearing has already been provided, the applicant may request that the hearing be deferred by submitting a written request for deferral to the Development Services Director before the date on which the public hearing is scheduled.

b. The Development Services Director shall submit the request to the body scheduled to hold the hearing, which may grant the request for good cause, or if finding no good cause for deferral, may proceed to hold the hearing, then consider and act on the application.

c. If the body grants the request for deferral, it shall concurrently set a new hearing date for the application.

d. If a deferral is granted, the application may be subject to additional application fees to defray the additional costs of processing the application.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2016-51](#), passed 3-22-16)

155.2424. APPEAL

A. Purpose

The purpose of this section is to establish an administrative remedy whereby persons claiming to have been aggrieved by a decision of the Development Services Director or a decision-making body may appeal that decision.

B. Right to Appeal

1. Parties aggrieved by a final decision by the Development Services Director.

A party aggrieved by a final decision by the Development Services Director identified in [Table 155.2424.B](#), Appellate Boards for Appeals of Development Services Director Decisions, may appeal the decision to the appellate board identified in the table as responsible for reviewing such appeals, in accordance with the procedures as set forth in Section [155.2424.C](#), Appeal Procedure.

TABLE 155.2424.B: APPELLATE BOARDS FOR APPEALS OF DECISIONS OF DEVELOPMENT SERVICES DIRECTOR

TABLE 155.2424.B: APPELLATE BOARDS FOR APPEALS OF DECISIONS OF DEVELOPMENT SERVICES DIRECTOR	
Application Type	Board Responsible for Reviewing Appeal
Minor Building Design	Architectural Appearance Committee (AAC)
Minor Certificate of Appropriateness	Historic Preservation Committee (HPC)
All other application types and waiver requests	Zoning Board of Appeals (ZBA)

2. A party aggrieved by a final decision by the P&Z on a Major Site Plan application or Air Park Obstruction Permit, by the AAC on a Major Building Design application, or by the HPC on a Major Certificate of Appropriateness application may appeal the decision to the City Commission in accordance with this section, including the procedures as set forth in Section [155.2424.C](#).

3. A party aggrieved by a final decision by the Zoning Board of Appeals as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

4. A party aggrieved by a final decision by the City Commission as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

5. Decisions relating to application of the Building Code are appealable in accordance with the Florida Building Code and [Chapter 152](#) (Buildings) of the Code of Ordinances.

C. Appeal Procedure

1. Step 1: Pre-Application Conference

Optional (See Section [155.2301](#)).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section [155.2303](#)), except that an appeal shall be initiated by filing a written Notice of Appeal and appeal application with the Development Services Director within 30 days of the date of the decision or interpretation being appealed.

4. Step 4: Staff Review and Action

Applicable, except that on accepting a Notice of Appeal and appeal application, the Development Services Director shall transmit the notice, application, and all the papers, documents, and other materials relating to the appealed interpretation or decision to the appropriate appellate body. These materials constitute the record of the appeal.

5. Step 5: Public Hearing Scheduling and Notice

Applicable (See Section [155.2305](#)), except that the Development Services Director shall also provide notice of the public hearing to the applicant for the decision being appealed, if different from the appellant.

6. Step 6: Advisory Body Review and Recommendation

Not applicable.

7. Step 7: Decision-Making Body Review and Decision

The following alternative procedures and standards shall apply:

a. Public Hearing and Review

i. The appellate body shall conduct a quasi-judicial hearing on the appeal in accordance with the procedures and special considerations required by Section [30.08](#) of the Code of Ordinances and by state law.

ii. The appellate body shall review the Notice of Appeal and appeal application, the record of the decision or interpretation being appealed, arguments from the appellant, who may appear in person, by agent or by attorney, identifying the grounds for the appeal and basis for the alleged error in the decision being appealed, responding arguments from city staff, and any other relevant comments by other interested parties.

b. Decision

The final decision of the appellate body shall be one of the following:

- i. Affirmation of the decision or interpretation (in whole or in part);
- ii. Modification of the decision or interpretation (in whole or in part); or
- iii. Reversal of the decision or interpretation (in whole or in part).

c. Super-Majority Vote by the Zoning Board of Appeals

The concurring vote of at least five members of the ZBA is required for the board to modify or reverse a decision or interpretation by the Development Services Director.

D. Review Standards

1. The appellate body shall review an Appeal in accordance with the standards of this Code applicable to the decision or interpretation being appealed, and shall base its decision solely on the record established below in making the decision or interpretation being appealed. The record shall consist of all documents, hearing records, and other materials related to the decision or interpretation.

2. The appellate body may modify or reverse a decision or interpretation on appeal (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the application of the relevant standards or provisions of this Code.

3. For Sexually Oriented Businesses, the sole issue to be considered in an Appeal is whether the Development Services Director's determination was correct, pursuant to the requirements of [Article 4](#), Section [155.4224](#).

E. Effect of Pending Appeal

A pending appeal stays all city actions in furtherance of the decision appealed from unless the Development Services Director certifies to the appellate body reviewing the decision that because of facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by an order issued by the appellate body.

F. Effect of Appeal Decision

To the extent a decision on an appeal pertains to application of a particular provision of this Code in a particular circumstance, the appeal decision shall be binding on subsequent decisions by the Development Services Director or other city administrative official applying the same provision of this Code in the same circumstance.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-32](#), passed 12-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2013-43](#), passed 2-26-13; Am. Ord. [2013-73](#), passed 7-23-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15; Am. Ord. [2017-23](#), passed 1-24-17)

155.2422. AIR PARK OBSTRUCTION

A. Purpose

The purpose of this section is to establish a standard process for reviewing and approving objects or structures that exceed the federal obstruction standards contained in 14 C.F.R. part 77, subpart C including any object of natural growth or terrain; permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure. Objects or structures that require notice under 14 C.F.R. Part 77.9 shall utilize the FAA Notice Criteria Tool and submit FAA form 7460-1 to the FAA in accordance with FAA requirements, if applicable.

B. Applicability

An Air Park Obstruction permit approved in accordance with the standards in this section is required before approval of a Zoning Compliance Permit for development of any Air Park obstruction.

1. Abbreviated Process for Cranes and Temporary Construction Equipment

Cranes and construction equipment in use or in place for a period not to exceed 18 consecutive months will be permitted with an abbreviated obstruction review process which requires the Applicant obtain a Determination of No Hazard to Air Navigation from the FAA for Temporary Crane and Construction Equipment Usage. This Determination of No Hazard will be in addition to the Determination assigned to the proposed structure. The Air Park Obstruction Approval Review Standards in Section 155.2422.D will not apply. The cost recovery review and P&Z public hearing typically required for obstruction permits will not be necessary for these temporary obstructions. The applicant will comply with any applicable obstruction lighting and other potential restrictions associated with lowering during inclement weather, etc. which may be required by the FAA or the City as conditions of building permit approval.

C. Air Park Obstruction Procedure

Applications for Air Park Obstructions for new buildings shall be submitted concurrently with an application for Planned Development Rezoning or Site Plan, as applicable. All other applications for Air Park Obstructions may be submitted as a stand-alone application. In accordance with the required review process in Ch. 333.025(4), upon receipt of the complete permit application and cost-recovery review fee, Development Services shall provide a copy of the application to the FDOT aviation office by certified mail, return receipt requested or by email with receipt to evidence delivery. The aviation office shall have 15 days to review the application following receipt. The FDOT review period shall run concurrently with the City's review period. Development Services will also provide the complete application to the City's aviation consultant to complete a cost-recovery review of the application to determine compliance with the criteria contained in Section 155.2422.D.

1. Step 1: Pre-Application Conference

Optional (See Section 155.2301.).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.). The Application must include documentation showing both compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study. Approval of a permit is not based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

4. Step 4: Staff Review and Action

Applicable to a recommendation by the Development Services Director following DRC review and comment (See Section 155.2304.), based on cost recovery consultant review and FDOT review. The Development Services Director may waive the requirement for DRC review for applications that do not require Planned Development Rezoning or Site Plan approval.

5. Step 5: Public Hearing Scheduling and Notice

Not Applicable.

6. Step 6: Advisory Body Review and Recommendation

Not Applicable.

7. Step 7: Decision-Making Body Review and Decision

Applicable to a final decision by the P&Z (See Section 155.2307.) and shall be placed on the same P&Z agenda as the concurrent Planned Development Rezoning or Site Plan, if applicable.

D. Air Park Obstruction Approval Review Standards

Following the receipt of a determination by the Federal Aviation Administration (FAA) that the proposed development would not result in an airport hazard, the Planning and Zoning Board may approve an Air Park Obstruction only on a finding that there is competent substantial evidence in the record that the issuance of the development order for Air Park Obstruction would not allow for the establishment or creation of an airport hazard based on the following criteria considerations, as applicable, per Ch. 333.025(6) F.S.:

1. Any ~~Comments~~ received from the Florida Department of Transportation regarding the technical consistency with F.S. 333.025, as amended.
2. The safety of persons on the ground and in the air.
3. The safe and efficient use of navigable airspace and any other aeronautical impacts.

4. The nature of the terrain and height of existing structures.
5. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.
6. The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.
7. The development order for Air Park Obstruction, if issued, would not permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.
8. Approval of a permit is not to be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.
9. The following impacts to the Pompano Air Park:
 - i. The potential to destroy or impair the utility of the Pompano Air Park and the public investment therein.
 - ii. The character of existing and planned flight operations and developments at the Pompano Air Park.
 - iii. The effect of the obstruction on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.
 - iv. The effect of the construction or alteration of the proposed obstruction on the minimum descent altitude or the decision height at the Pompano Air Park.
10. The marking and lighting is in conformance with the specific standards established by the FAA.

E. Appeal

A party aggrieved by the final decision of the P&Z Board on an application for Air Park Obstruction may appeal the decision to the City Commission in accordance with the procedures and standards in Section 155.2424. A judicial appeal to any court may not be permitted in accordance with Chapter 333, I.F.S. "Judicial Review", until the appellant has exhausted all of its remedies through application for local government permits, exceptions and appeals.

F. Effect of Approval

A development order for Air Park Obstruction authorizes the submittal of an application for a Zoning Compliance Permit and any other development permit that may be required before construction or other development approved by the development order.

(Ord. [2017-60](#), passed 7-25-17)

155.3707. AIR PARK OVERLAY (APO) DISTRICT

A. Findings and Purpose

1. Findings

The City Commission hereby finds:

- a. The city, as owner and operator of the Pompano Beach Air Park, is concerned with the safety and welfare of the traveling public as pilots and passengers of aircraft using runways at the Air Park;
- b. Certain obstructions, whether natural or man-made, that intrude into airspace near runways have the potential to be hazardous to aircraft operations and endanger the lives and property of users of the Air Park and of occupants of land in the vicinity of the obstruction;
- c. Such obstructions effectively reduce the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein;
- d. Certain activities and uses of land in the immediate vicinity of airports are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities;
- e. The creation or establishment of an Air Park hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community served by the Air Park;
- f. It is therefore necessary in the interest of the public health, public safety, and general welfare to prevent the creation or establishment of Air Park hazards and limit land use incompatible with normal Air Park operations; and
- g. The prevention of these hazards, limitation of incompatible land uses, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power of the city.

2. Purpose

It is the purpose of the Air Park Overlay (APO) district to recognize an area adjacent to the runways of the Pompano Beach Air Park in which obstructions and incompatible land uses may pose a hazard to safe Air Park operations and to apply reasonable regulations that prevent such obstructions and limit such incompatible uses and are consistent with F.S. Ch. 333, Airport Zoning, ~~and the standards for civilian airports established by the Federal Aviation Administration (FAA).~~ The standards contained herein reflect the character of the flying operations expected to be conducted at the Pompano Beach Air Park, the nature of the terrain within the airport hazard area and runway protection zones, the character of the surrounding neighborhoods, and the impact of any new use, activity, or construction on the Pompano Beach Air Park's operating capability and capacity.

3. Definitions

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

a. Aeronautical Study – means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.

b. Air Park hazard. An obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities. The term includes use, development or activity which:

- i. Has been determined by the FAA to pose a hazard to air navigation;
- ii. Creates electrical interference with radio or navigational equipment used by aircraft, the airfield, or the FAA;
- iii. Produces smoke, dust, steam, or other airborne substances in such amounts as to impair pilot visibility, mislead pilots, or otherwise interfere with the safe operation of overhead aircraft;
- iv. Produces light emissions—either direct or indirect (reflective)—of such intensity and directed in such directions as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft;
- v. Causes glare which would interfere with airport operations; or
- vi. Attracts birds or other wildlife, thereby creating hazards either on the ground or in the air.

c. Air Park Hazard Area. Any area of land or water upon which an air park hazard might be established.

d. Air Park Master Plan. A comprehensive plan for an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.

e. Obstruction. Any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term includes:

- i. Any object of natural growth or terrain;
- ii. Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or
- iii. Alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

f. Public Use Airport. An airport publically or privately owned, licensed by the state, which is open for use by the public.

g. Runway Protection Zone. An area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

h. Structure. Any object constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

i. Substantial modification. Any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.



B. Air Park Zones and Height Limits

The Air Park zones established below (Primary Zone, Approach Zone, Horizontal Zone, Conical Zone, and Transitional Zone) comprise the Air Park Overlay (APO) district.

1. Primary Zone

a. Established

A Primary Zone is established as a rectangular area longitudinally centered on each Air Park runway, extending 200 feet beyond each end of the runway (as existing or proposed to be extended in accordance with the Pompano Beach Air Park Master Plan, as updated and amended), and extending outward at a right angle from each side of the centerline for a horizontal distance equal to one-half the Primary Zone width set forth in [Table 155.3707.B](#), Air Park Zone Dimensions, for the particular runway. (See [Figure 155.3707.B](#): Air Park Zones.)

b. Prohibition of Objects Unrelated to Air Park Facilities

Within a Primary Zone, no structure, tree, or other object shall be allowed that is not part of the Air Park's landing and take-off facilities and is of a greater elevation than the nearest point of the runway centerline.

2. Approach Zone

a. Established

An Approach Zone is established at each end of each Air Park runway as a trapezoidal area longitudinally centered on the extended centerline of the runway. The Approach Zone begins with an inner edge adjoining the Primary Zone (and has the same width) and expands uniformly in width to a wider outer edge. The outer edge is located a horizontal distance from the Primary Zone (measured along the extended runway centerline) equal to the Approach Zone length set forth in [Table 155.3707.B](#), Air Park Zone Dimensions, for the particular runway, and extends at right angles to each side of the runway centerline for a horizontal distance equal to one-half the Approach Zone outer width set forth in [Table 155.3707.B](#), Air Park Zone Dimensions, for the particular runway. (See [Figure 155.3707.B](#): Air Park Zones.)

b. Height Limit

Within an Approach Zone, the height limit applicable to any structure, tree, or other object shall be the elevation of the runway at the inner edge of the Approach Zone, and shall increase with horizontal distance outward from the inner edge at the Approach Zone height limit ratio set forth in [Table 155.3707.B](#), Air Park Zone Dimensions, for the particular runway. (See [Figure 155.3707.B](#): Air Park Zones.)

3. Horizontal Zone

a. Established

A Horizontal Zone is established as a circle- or oval-like area around the Air Park, the perimeter of which is formed by constructing arcs at the end of each runway that extend from a point at the intersection of the extended runway centerline and the inner edge of the Primary Zone, and connecting the arcs by lines tangent to the arcs. The radius of an arc is set forth in [Table 155.3707.B](#), Air Park Zone Dimensions, for the particular runway. (See [Figure 155.3707.B](#): Air Park Zones.) Where a 5,000-foot arc is encompassed by tangent lines connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded in determining the perimeter of the Horizontal Zone.

b. Height Limit

Within the Horizontal Zone, no structure, tree, or other object may exceed a height limit of 150 feet above the elevation of the established Air Park elevation of 19 feet above mean sea level—i.e., may not be higher than an elevation of 169 feet.

4. Conical Zone

a. Established

A Conical Zone is established as a doughnut-like area extending outward from the perimeter of the Horizontal Zone for a horizontal distance of 4,000 feet. (See [Figure 155.3707.B](#): Air Park Zones.)

b. Height Limit

Within the Conical Zone, the height limit applicable to any structure, tree, or other object shall be the same as that for the Horizontal Zone (150 feet above the established airport elevation) at the inner perimeter of the Conical Zone, and shall increase outward by one foot vertically for every 20 feet of horizontal distance from the inner perimeter of the Conical Zone (up to 350 feet above the established Air Park elevation at the outer perimeter of the Conical Zone). (See [Figure 155.3707.B](#): Air Park Zones.)

5. Transitional Zone

a. Established

Transitional Zones are established alongside and off the ends of each Air Park runway as irregular areas extending outward from the sides of the Primary Zones and Approach Zones to a point where the increasing height limit established for the Transitional Zone (See subsection b below.) equals that for the Horizontal Zone. (See [Figure 155.3707.B](#): Air Park Zones.)

b. Height Limit

Within a Transitional Zone, the height limit applicable to any structure, tree, or other object shall be the same as that for the adjoining Primary Zone (runway elevation) or Approach Zone (variable) at the inner perimeter of the Transitional Zone, and shall increase outward by one foot vertically for every seven feet of horizontal distance from the inner perimeter of the Transitional Zone, up until it equals the height limit for the Horizontal Zone (150 feet above the established airport elevation). (See [Figure 155.3707.B](#): Air Park Zones.)

 **TABLE 155.3707.B: AIR PARK ZONE DIMENSIONS ¹**

Note: This table is best viewed in PDF, click [HERE](#)

TABLE 155.3707.B: AIR PARK ZONE DIMENSIONS ¹				
Air Park Zone and Dimension/Height Limit		Runway 10-28	Runway 15-33	Runway 6-24
Primary Zone	Width	250 ft	500 ft	500 ft
	Length	Runway length plus 200 ft at each end of runway ²		
Approach Zone	Inner Width	250 ft	500 ft	500 ft
	Outer Width	1,250 ft	3,500 ft	3,500 ft
	Length	5,000 ft	10,000 ft	10,000 ft
	Height Limit	Runway elevation plus 1 ft per 20 ft horizontal distance from inner edge of zone		
Horizontal Zone	Arc Radius	5,000 ft	10,000 ft	10,000 ft
	Height Limit	150 ft above established Air Park elevation (169 ft above mean sea level)		
Conical Zone	Width	4,000 ft		

TABLE 155.3707.B: AIR PARK ZONE DIMENSIONS ¹

Air Park Zone and Dimension/Height Limit		Runway 10-28	Runway 15-33	Runway 6-24
	Height Limit	150 ft above established Air Park elevation (169 ft above mean sea level) plus 1 ft per 20 ft horizontal distance from inner perimeter of zone		
Transitional Zone	Height Limit	Height limit for adjoining Primary Zone (runway elevation) or Approach Zone (variable) plus 1 ft per 7 ft horizontal distance from inner perimeter of zone, up to 150 ft above established Air Park elevation (169 ft above mean sea level)		

NOTES: ft = feet

1. An area located within more than one airport zone shall be subject to the more restrictive height limit required. An area within an APO Air Park zone is also subject to any more restrictive height limits applicable in the base zoning district, planned development district, or other overlay district applicable to the area.
2. The Primary Zone extends to 200 ft beyond the end of the existing runway or any extension of the runway proposed in the Pompano Beach Air Park Master Plan, as updated and amended.

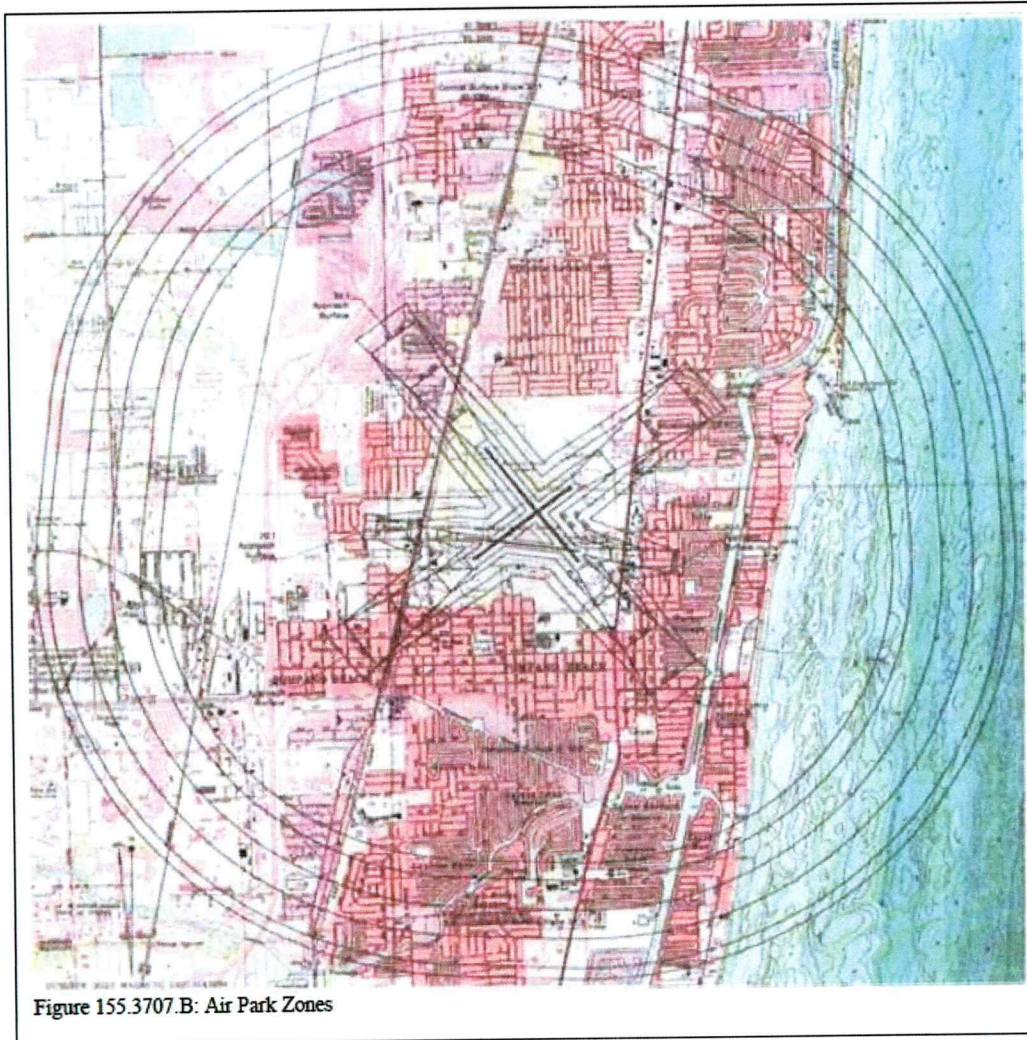


 Figure 155.3707.B: Air Park Zones

C. Air Park Overlay Protection and Land Use Compatibility Zoning Regulation

Air Park land use compatibility zoning means Air Park zoning regulations governing the use of land on, adjacent to or in the immediate vicinity of the Air Park as a means for governing airport hazards. The City shall provide a copy of these regulations and any amendments to these regulations to FDOT for review within 30-days of adoption. In the event of conflict between the Air Park overlay zoning regulations adopted herein and any other regulations applicable to the same area, the more stringent limitation or requirement shall prevail.

1. Air Park Hazards Prohibited

Notwithstanding any other provisions of this Code no airport hazard shall occur on land or water within any airport zone (as established in Section 155.3707.B, Air Park Zones and Height Limits).

2. Development Order for Air Park Obstruction Required

A property owner proposing to construct, alter, or allow an obstruction within the APO must apply for a Development Order for Air Park Obstruction. If the obstruction permit application is for changes to an existing, nonconforming obstruction that has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit may not be granted if it would allow the obstruction to exceed the applicable height limit or otherwise deviate from the Air Park protection zoning regulations. Whether or not an application is made for a permit under this subsection, the owner of the nonconforming obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction as may be necessary to conform to the current Air Park protection zoning regulations. If the owner of the nonconforming obstruction neglects or refuses to comply with such requirement for 10 days after notice, the City may proceed to have the obstruction lowered, removed, reconstructed, altered, or equipped and assess the cost and expense to the owner of the obstruction or land whereon it is or was located.

a. Obstruction Marking and Lighting

A property owner for which a Development Order for Air Park Obstruction has been approved shall be required to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

b. Obstruction Construction or Alteration Notification

A property owner for which a Development Order for Air Park Obstruction has been approved shall submit to the Development Services Director documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a valid aeronautical study.

3. Locational Restrictions on Incompatible Land Uses.

The Air Park is subject to a noise study completed in conformance with 14 C.F.R., part 150 and has established noise contours that do not extend outside of the Air Park boundaries. Incompatible uses, as established in the noise study in 14 C.F.R. part 150, Appendix A, are prohibited within the noise contours established by the noise study except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.

3. Locational Restrictions on Residential Uses

~~New residential construction shall not be permitted within an area affected by the approved Part 150 Noise Study noise contours. The 2016 Pompano Beach Air Park Noise Contour Update Report's Figures 5 and 6 demonstrates that the 2015 and 2020 Noise Contours do not impact any land designated or zoned for residential uses.~~

4. Locational Restrictions on Educational Uses

~~a. New educational facilities, with the exception of aviation school facilities, shall not be permitted within an area affected by the approved Part 150 Noise Study noise contours. The 2016 Pompano Beach Air Park Noise Contour Update Report's Figures 5 and 6 demonstrates that the 2015 and 2020 Noise Contours do not impact any land designated or zoned for educational uses.~~

5. Restrictions for Landfills and Other Uses Which Attract Birds.

a. **Restricted Locations.** New landfills and other uses which store, handle, or process organic or any other materials that foster or harbor the growth of insects, rodents, amphibians, or other similar organisms, in such a way as to significantly increase the potential for aircraft bird strike hazard to aircraft operations are restricted within the following areas:

- i. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
- ii. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.
- iii. Outside the perimeters defined in subsections i. and ii. above, but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19.

b. **Bird Management Techniques.** Uses subject to the restricted locations in subsection a(iii) may be permitted within the listed locations provided the applicant submits a Bird Management Technique plan which effectively demonstrates techniques and practices which will be used to minimize bird hazards.

6. New incompatible uses, activities, or substantial modifications to existing incompatible uses shall not be permitted within Runway Protection Zones (RPZ). The Airport Property Map dated 3-20-14 on file with the City of Pompano Beach shows the RPZs do not impact any land designated or zoned for residential or educational uses.

D. Airport Hazard Areas in Multiple Political Subdivisions

1. ~~Where~~ If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R., Part 77, Subpart C, the political subdivisions airport hazard area appertaining to such airport is located wholly or partly outside the territorial limits of

said political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located, shall either:

a. By interlocal agreement, in accordance with the provisions of chapter 163, adopt, administer, and enforce a set of airport protection zoning regulations applicable to the airport hazard area in question; or

b. By ordinance, regulation, or resolution duly adopted, create a joint airport protection zoning board that, which board shall have the same power to adopt, administer, and enforce a set of airport zoning regulations applicable to the airport hazard area in question as that vested in paragraph (a) in the political subdivision within which such area is located. Each The such joint airport protection zoning board shall have as voting members two representatives appointed by each participating political subdivision participating in its creation and in addition a chair elected by a majority of the members so appointed. However, the The airport manager or managers a representative of each airport in of the affected participating political subdivisions shall serve on the board in a nonvoting capacity.

(Ord. 2012-64, passed 9-11-12; Am. Ord. 2017-60, passed 7-25-17)

155.4229. INDUSTRIAL: WASTE-RELATED SERVICES USES

A. Purpose

Waste-Related Services Uses are solid waste management facilities regulated and permitted by the Florida Department of Environmental Protection's Bureau of Solid & Hazardous Waste. These uses are recognized as having potential negative impacts on the quality of air, water, soil, and other natural resources. It is further recognized that improper disposal and management of solid waste results in or contributes to air and water pollution, land blight, and nuisance conditions.

...

E. Additional Standards for Outdoor Waste-Related Service Uses

...

6. The Applicant shall comply with §155.3707.C.25 related to landfills located within the Air Park Overlay.

(Ord. 2012-64, passed 9-11-12; Am. Ord. 2013-37, passed 1-22-13; Am. Ord. 2013-73, passed 7-23-13; Am. Ord. 2014-16, passed 1-28-14; Am. Ord. 2017-60, passed 7-25-17)

TABLE 155.2304.C: APPLICATIONS SUBJECT TO STAFF RECOMMENDATION

TABLE 155.2304.C: APPLICATIONS SUBJECT TO STAFF RECOMMENDATION	
Text Amendment	
General Zoning Map Amendment (Rezoning)	
Site -Specific Zoning Map Amendment (Rezoning)	
Planned Development	
Special Exception	
Major Site Plan	
Major Building Design	
Major Certificate of Appropriateness	
Plat	
Major Temporary Use Permit	
Interim Use Permit	
Variance	
Major Administrative Adjustment	
<u>Air Park Obstruction</u>	
Development Agreement	
Takings or Vested Rights Determination [placeholder]	
Right-of-Way or Easement Dedication Acceptance	
Right-of-Way or Easement Vacation or Abandonment	

CITATIONS SHOWING COMPLIANCE OF CITY CODE WITH CHAPTER 333

CITATIONS OF WHERE TO FIND CHAPTER 333 REGULATIONS IN POMPANO'S ZONING CODE
July 17, 2018

The 2018 Florida Statutes

Title XXV

AVIATION

Chapter 333

AIRPORT ZONING

CHAPTER 333

AIRPORT ZONING

333.01 Definitions.

333.02 Airport hazards and uses of land in airport vicinities contrary to public interest.

333.025 Permit required for obstructions.

333.03 Requirement to adopt airport zoning regulations.

333.04 Comprehensive zoning regulations; most stringent to prevail where conflicts occur.

333.05 Procedure for adoption of airport zoning regulations.

333.06 Airport zoning regulation requirements.

333.07 Local government permitting of airspace obstructions.

333.09 Administration of airport protection zoning regulations.

333.11 Judicial review.

333.12 Acquisition of air rights.

333.13 Enforcement and remedies.

333.135 Transition provisions.

333.01 Definitions.—As used in this chapter, the term:

(1) "Aeronautical study" means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.

(2) "Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose.

Commented [JD1]: 155.3703.A.3.a.

Commented [JD2]: Common term, no need for special definition.

(3) "Airport hazard" means an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

Commented [JD3]: 155.3707.A.3.b.

(4) "Airport hazard area" means any area of land or water upon which an airport hazard might be established.

Commented [JD4]: 155.3707.A.3.c

(5) "Airport land use compatibility zoning" means airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports.

Commented [JD5]: 155.3707.C

(6) "Airport layout plan" means a set of scaled drawings that provides a graphic representation of the existing and future development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport.

Commented [JD6]: Term not used in Pompano's Code

(7) "Airport master plan" means a comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.

Commented [JD7]: 155.3707.A.3.d

(8) "Airport protection zoning regulations" means airport zoning regulations governing airport hazards.

Commented [JD8]: 155.3707.C

(9) "Department" means the Department of Transportation as created under s. 20.23.

Commented [JD9]: When FDOT is mentioned in our code, the entire name of the agency is used.

(10) "Educational facility" means any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multitenant building.

Commented [JD10]: Common term, no need for special definition.

(11) "Landfill" has the same meaning as provided in s. 403.703.

Commented [JD11]: Common term, no need for special definition.

(12) "Obstruction" means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term includes:

Commented [JD12]: 155.3707.A.3.e.

(a) Any object of natural growth or terrain;

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

(c) Alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

(13) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Commented [JD13]: Defined in City Code Chapter 10.04

(14) "Political subdivision" means the local government of any county, municipality, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.

Commented [JD14]: Common term, no need for special definition.

(15) "Public-use airport" means an airport, publicly or privately owned, licensed by the state, which is open for use by the public.

Commented [JD15]: 155.3707A.3.f

(16) "Runway protection zone" means an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

Commented [JD16]: 155.3707.A.3.g

(17) "Structure" means any object constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

Commented [JD17]: 155.3707.A.3.h

(18) "Substantial modification" means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

Commented [JD18]: 155.3707.A.3.i

History.—s. 1, ch. 23079, 1945; s. 2, ch. 75-16; s. 1, ch. 88-356; s. 70, ch. 90-136; s. 84, ch. 91-221; s. 482, ch. 95-148; s. 1, ch. 2016-209; s. 21, ch. 2016-239.

333.02 Airport hazards and uses of land in airport vicinities contrary to public interest.—

(1) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. It is further found that certain activities and uses of land in the immediate vicinity of airports as enumerated in s. 333.03(2) are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities. Accordingly, it is hereby declared:

(a) That the creation or establishment of an airport hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question;

(b) That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and

(c) That this should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

(2) It is further declared that the limitation of land uses incompatible with normal airport operations, the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

Commented [JD19]: 155.3707.A

History.—s. 2, ch. 23079, 1945; s. 2, ch. 88-356; s. 71, ch. 90-136.

333.025 Permit required for obstructions.—

(1) A person proposing the construction or alteration of an obstruction must obtain a permit from the department, subject to subsections (2), (3), and (4). However, permits from the department will be required only within an airport hazard area where federal obstruction standards are exceeded and if the proposed construction or alteration is within a 10-nautical-mile radius of the airport reference point, located at the approximate geometric center of all usable runways of a public-use airport or military airport.

(2) Existing, planned, and proposed facilities on public-use airports contained in an airport master plan, in an airport layout plan submitted to the Federal Aviation Administration, or in comparable military documents shall be protected from airport hazards.

(3) A permit is not required for existing structures that received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards before May 20, 1975; a permit is not required for any necessary replacement or repairs to such existing structures if the height and location are unchanged.

Commented [JD20]: Only applicable to FDOT.

(4) If political subdivisions have, in compliance with this chapter, adopted adequate airport protection zoning regulations, placed such regulations on file with the department's aviation office, and established a permitting process, a permit for the construction or alteration of an obstruction is not required from the department. Upon receipt of a complete permit application, the local government shall provide a copy of the application to the department's aviation office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. To

evaluate technical consistency with this subsection, the department shall have a 15-day review period following receipt of the application, which must run concurrently with the local government permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not to exceed 18 consecutive months are exempt from the department's review, unless such review is requested by the department.

Commented [JD21]: 155.2422.C

(5) The department shall, within 30 days after receipt of an application for a permit, issue or deny a permit for the construction or alteration of an obstruction. The department shall review permit applications in conformity with s. 120.60.

Commented [JD22]: N/A. FDOT does not issue a permit when the local government adopts the regulations required by Ch. 333

(6) In determining whether to issue or deny a permit, the department shall consider:

(a) The safety of persons on the ground and in the air.

(b) The safe and efficient use of navigable airspace.

(c) The nature of the terrain and height of existing structures.

(d) The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.

(e) The character of existing and planned flight operations and developments at public-use airports.

(f) Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.

(g) The effect of the construction or alteration of an obstruction on the minimum descent altitude or the decision height at the affected airport.

(h) The cumulative effects on navigable airspace of all existing obstructions and all known proposed obstructions in the area.

Commented [JD23]: 155.2422.D

(7) When issuing a permit under this section, the department shall require the owner of the obstruction to install, operate, and maintain, at the owner's expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

Commented [JD24]: 155.2422.D.10 and 155.3707.C.2.a

(8) The department may not approve a permit for the construction or alteration of an obstruction unless the applicant submits documentation showing both compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study. A permit may not be approved solely on the basis that the Federal Aviation Administration determined that the proposed construction or alteration of an obstruction was not an airport hazard.

Commented [JD25]: 155.2422.C.3 and 155.3707.C.2.b

Commented [JD26]: 155.2422.D.8

(9) The denial of a permit under this section is subject to administrative review pursuant to chapter 120.

Commented [JD27]: N/A

History.—s. 3, ch. 75-16; s. 3, ch. 88-356; s. 7, ch. 92-152; s. 2, ch. 2016-209; s. 22, ch. 2016-239.

333.03 Requirement to adopt airport zoning regulations.—

(1)(a) Every political subdivision having an airport hazard area within its territorial limits shall adopt, administer, and enforce, under the police power and in the manner and upon the conditions prescribed in this section, airport protection zoning regulations for such airport hazard area.

Commented [JD28]: 155.3707

(b) If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R. part 77, subpart C, the political subdivisions shall either:

1. By interlocal agreement, adopt, administer, and enforce a set of airport protection zoning regulations; or
2. By ordinance, regulation, or resolution duly adopted, create a joint airport protection zoning board that shall adopt, administer, and enforce a set of airport protection zoning regulations. The joint airport protection zoning board shall have as voting members two representatives appointed by each participating political subdivision and a chair elected by a majority of the members so appointed. The airport manager or a representative of each airport in the affected participating political subdivisions shall serve on the board in a nonvoting capacity.

Commented [JD29]: 155.3707.D.1.a and b

(c) Airport protection zoning regulations adopted under paragraph (a) must, at a minimum, require:

1. A permit for the construction or alteration of any obstruction;
2. Obstruction marking and lighting for obstructions;
3. Documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a valid aeronautical study submitted by each person applying for a permit;
4. Consideration of the criteria in s. 333.025(6), when determining whether to issue or deny a permit; and
5. That approval of a permit not be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

Commented [JD30]: 155.2422; 155.3707.C.2

Commented [JD31]: 155.3707.C.2.a

Commented [JD32]: 155.3707.C.2.b

Commented [JD33]: 155.2422.D

Commented [JD34]: 155.2422.D

(d) The department shall be available to provide assistance to political subdivisions regarding federal obstruction standards.

Commented [JD35]: N/A

(2) In the manner provided in subsection (1), political subdivisions shall adopt, administer, and enforce airport land use compatibility zoning regulations. Airport land use compatibility zoning regulations shall, at a minimum, address the following:

- (a) The prohibition of new landfills and the restriction of existing landfills within the following areas:
 1. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
 2. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.

Commented [JD36]: 155.3707.C.5.a.i

Commented [JD37]: 155.3707.C.5.a.ii

3. Outside the perimeters defined in subparagraphs 1. and 2., but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19. Case-by-case review of such landfills is advised.

Commented [JD38]: 155.3707.C.5.a.iii

(b) Where any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.

Commented [JD39]: 155.3707.C.5.b

(c) Where an airport authority or other governing body operating a public-use airport has conducted a noise study in accordance with 14 C.F.R. part 150, or where a public-use airport owner has established noise contours pursuant to another public study approved by the Federal Aviation Administration, the prohibition of incompatible uses, as established in the noise study in 14 C.F.R. part 150, Appendix A or as a part of an alternative Federal Aviation Administration-approved public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.

Commented [JD40]: 155.3707.C.3

(d) Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the prohibition of residential construction and any educational facility, with the exception of aviation school facilities,

within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

Commented [JD41]: N/A. We have a noise study.

(e) The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones.

Commented [JD42]: 155.3707.C

(3) Political subdivisions shall provide a copy of all airport protection zoning regulations and airport land use compatibility zoning regulations, and any related amendments, to the department's aviation office within 30 days after adoption.

Commented [JD43]: 155.3707.C

(4) Subsection (2) may not be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any educational facility or site in existence on July 1, 1993.

Commented [JD44]: N/A

(5) This section does not prohibit an airport authority, a political subdivision or its administrative agency, or any other governing body operating a public-use airport from establishing airport zoning regulations more restrictive than prescribed in this section in order to protect the health, safety, and welfare of the public in the air and on the ground.

Commented [JD45]: N/A

History.—s. 3, ch. 23079, 1945; s. 4, ch. 75-16; s. 4, ch. 88-356; s. 72, ch. 90-136; s. 8, ch. 92-152; s. 10, ch. 93-164; s. 1, ch. 94-201; s. 958, ch. 95-148; s. 971, ch. 2002-387; s. 3, ch. 2016-209; s. 23, ch. 2016-239.

333.04 Comprehensive zoning regulations; most stringent to prevail where conflicts occur.—

(1) INCORPORATION.—In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive plan or policy regulating, among other things, the height of buildings, structures, and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive plan or policy, and be administered and enforced in connection therewith.

Commented [JD46]: Comprehensive Plan related. Zoning must always be consistent with the Comp Plan.

(2) CONFLICT.—In the event of conflict between any airport zoning regulations adopted under this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or vegetation, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision that adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

Commented [JD47]: 155.3707.C

History.—s. 4, ch. 23079, 1945; s. 4, ch. 2016-209; s. 24, ch. 2016-239.

333.05 Procedure for adoption of airport zoning regulations.—

(1) NOTICE AND HEARING.—Airport zoning regulations may not be adopted, amended, or repealed under this chapter except by action of the legislative body of the political subdivision or affected subdivisions, or the joint board provided in s. 333.03(1)(b)2. by the political subdivisions therein provided and set forth, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the political subdivision or subdivisions where the airport zoning regulations are to be adopted, amended, or repealed.

Commented [JD48]: This is legal standard procedure for adoption of an Ordinance.

(2) AIRPORT ZONING COMMISSION.—Before the initial zoning of any airport area under this chapter, the political subdivision or joint airport zoning board that is to adopt, administer, and enforce the regulations must appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board may not hold its public hearings or take any action until it has received the final report of such commission, and at least 15 days shall elapse between the receipt of the final report of the commission and the hearing to be held by the latter board. If a planning commission, an airport commission, or a comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

Commented [JD49]: The initial Airport zoning was established many years ago and did not follow this procedure. 155.3707.D establishes the procedure which will be by interlocal agreement, if required and necessary.

History.—s. 5, ch. 23079, 1945; s. 74, ch. 90-136; s. 23, ch. 90-279; s. 39, ch. 95-143; s. 5, ch. 2016-209; s. 25, ch. 2016-239.

333.06 Airport zoning regulation requirements.—

(1) **REASONABLENESS.**—All airport zoning regulations adopted under this chapter shall be reasonable and may not impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area and runway protection zones, the character of the neighborhood, the uses to which the property to be zoned is put and adaptable, and the impact of any new use, activity, or construction on the airport's operating capability and capacity.

Commented [JD50]: 155.3707.A.2

(2) **INDEPENDENT JUSTIFICATION.**—The purpose of all airport zoning regulations adopted under this chapter is to provide both airspace protection and land uses compatible with airport operations. Each aspect of this purpose requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway protection zone which does not exceed airspace height restrictions is not conclusive that such use, activity, or construction is compatible with airport operations.

Commented [JD51]: The City, Airpark Manager, Airpark consultant, the FAA and FDOT coordinate their independent reviews of all obstruction permit applications.

(3) **NONCONFORMING USES.**—An airport protection zoning regulation adopted under this chapter may not require the removal, lowering, or other change or alteration of any obstruction not conforming to the regulation when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3).

Commented [JD52]: Our Code does not require nonconformities created by these regulations to be removed.

(4) **ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED LOCAL GOVERNMENTS.**—An airport master plan shall be prepared by each public-use airport licensed by the department under chapter 330. The authorized entity having responsibility for governing the operation of the airport, when either requesting from or submitting to a state or federal governmental agency with funding or approval jurisdiction a "finding of no significant impact," an environmental assessment, a site-selection study, an airport master plan, or any amendment to an airport master plan, shall submit simultaneously a copy of said request, submittal, assessment, study, plan, or amendments by certified mail to all affected local governments. As used in this subsection, the term "affected local government" is defined as any municipality or county having jurisdiction over the airport and any municipality or county located within 2 miles of the boundaries of the land subject to the airport master plan.

Commented [JD53]: The Airpark has a Master Plan.

History.—s. 6, ch. 23079, 1945; s. 75, ch. 90-136; s. 76, ch. 2002-20; s. 6, ch. 2016-209; s. 26, ch. 2016-239.

333.07 Local government permitting of airspace obstructions.—

(1) PERMITS.—

(a) A person proposing to construct, alter, or allow an airport obstruction in an airport hazard area in violation of the airport protection zoning regulations adopted under this chapter must apply for a permit. A permit may not be issued if it would allow the establishment or creation of an airport hazard or if it would permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.

Commented [JD54]: 155.3707.D.7

(b) If the political subdivision or its administrative agency determines that a nonconforming obstruction has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit may not be granted if it would allow the obstruction to exceed the applicable height limit or otherwise deviate from the airport protection zoning regulations. Whether or not an application is made for a permit under this subsection, the owner of the nonconforming obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction as may be necessary to conform to the current airport protection zoning regulations. If the owner of the nonconforming obstruction neglects or refuses to comply with such requirement for 10 days after notice, the

administrative agency may report the violation to the political subdivision involved, which subdivision, through its appropriate agency, may proceed to have the obstruction so lowered, removed, reconstructed, altered, or equipped and assess the cost and expense thereof upon the owner of the obstruction or the land whereon it is or was located.

Commented [JD55]: 155.3707.C.2

(2) **CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.**—In determining whether to issue or deny a permit, the political subdivision or its administrative agency must consider the following, as applicable:

- (a) The safety of persons on the ground and in the air.
- (b) The safe and efficient use of navigable airspace.
- (c) The nature of the terrain and height of existing structures.
- (d) The effect of the construction or alteration on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.
- (e) The character of existing and planned flight operations and developments at public-use airports.
- (f) Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.
- (g) The effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.
- (h) The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.
- (i) Additional requirements adopted by the political subdivision or administrative agency pertinent to evaluation and protection of airspace and airport operations.

Commented [JD56]: Same as 333.025(6) reflected in 155.2422.D

(3) **OBSTRUCTION MARKING AND LIGHTING.**—In issuing a permit under this section, the political subdivision or its administrative agency shall require the owner of the obstruction to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

Commented [JD57]: 155.3707.2.a

History.—s. 7, ch. 23079, 1945; s. 5, ch. 88-356; s. 76, ch. 90-136; s. 483, ch. 95-148; s. 33, ch. 2016-10; s. 7, ch. 2016-209; s. 28, ch. 2016-239.

333.09 Administration of airport protection zoning regulations.—

(1) **ADMINISTRATION.**—All airport protection zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by the political subdivision or its administrative agency. The duties of any administrative agency designated pursuant to this chapter must include that of hearing and deciding all permits under s. 333.07, as they pertain to such agency, and all other matters under this chapter applying to said agency.

Commented [JD58]: 155.2305

(2) **LOCAL GOVERNMENT PROCESS.—**

- (a) A political subdivision required to adopt airport zoning regulations under this chapter shall provide a process to:
 1. Issue or deny permits consistent with s. 333.07.
 2. Provide the department with a copy of a complete application consistent with s. 333.025(4).
 3. Enforce the issuance or denial of a permit or other determination made by the administrative agency with respect to airport zoning regulations.

(b) If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the airport zoning regulation permitting and appeals processes.

Commented [JD59]: 155.2422.C

(3) APPEALS.—

(a) A person, a political subdivision or its administrative agency, or a joint airport zoning board that contends a decision made by a political subdivision or its administrative agency is an improper application of airport zoning regulations may use the process established for an appeal.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the political subdivision or its administrative agency, by filing with the entity from which the appeal is taken a notice of appeal specifying the grounds for appeal.

Commented [JD60]: 155.2422.E and 155.2424

(c) An appeal shall stay all proceedings in the underlying action appealed from, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings may not be stayed except by order of the political subdivision or its administrative agency on notice to the entity from which the appeal is taken and for good cause shown.

Commented [JD61]: 155.2424.E

(d) The political subdivision or its administrative agency shall set a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney.

Commented [JD62]: 155.2424.C.7.a.ii

(e) The political subdivision or its administrative agency may, in conformity with this chapter, affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken.

Commented [JD63]: 155.2424.C.7.b.

History.—s. 9, ch. 23079, 1945; s. 8, ch. 2016-209; s. 30, ch. 2016-239.

333.11 Judicial review.—

(1) Any person, political subdivision, or joint airport zoning board affected by a decision of a political subdivision or its administrative agency may apply for judicial relief to the circuit court in the judicial circuit where the political subdivision is located within 30 days after rendition of the decision. Review shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

Commented [JD64]: 155.2424.E

(2) The court has exclusive jurisdiction to affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken and, if appropriate, to order further proceedings by the political subdivision or its administrative agency. The findings of fact by the political subdivision or its administrative agency, if supported by substantial evidence, shall be accepted by the court as conclusive, and an objection to a decision of the political subdivision or its administrative agency may not be considered by the court unless such objection was raised in the underlying proceeding.

(3) If airport zoning regulations adopted under this chapter are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land, or such regulations as are not involved in the particular decision.

Commented [JD65]: Not governed by our Code.

(4) A judicial appeal to any court may not be permitted under this section until the appellant has exhausted all of its remedies through application for local government permits, exceptions, and appeals.

Commented [JD66]: 155.2422.E

History.—s. 11, ch. 23079, 1945; s. 43, ch. 63-512; s. 7, ch. 88-356; s. 485, ch. 95-148; s. 9, ch. 2016-209; s. 32, ch. 2016-239.

333.12 Acquisition of air rights.—If a nonconforming obstruction is determined to be an airport hazard and the owner will not remove, lower, or otherwise eliminate it; the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this chapter; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming obstruction is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation in the manner provided by chapter 73, such property, air right, aviation easement, or other estate, portion, or interest in the property or nonconforming obstruction or such interest in the air above such property, in question, as may be necessary to effectuate the purposes of this chapter, and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned, at the time, and in the manner and form, and as authorized by chapter 74. In the case of the purchase of any property, easement, or estate or interest therein or the acquisition of the same by the power of eminent domain, the political subdivision making such purchase or exercising such power shall, in addition to the damages for the taking, injury, or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility that is required to be moved to a new location.

History.—s. 12, ch. 23079, 1945; s. 10, ch. 2016-209; s. 33, ch. 2016-239.

Commented [JD67]: Not applicable to zoning.

333.13 Enforcement and remedies.—

(1) Each violation of this chapter or of any airport zoning regulations, orders, or rulings adopted or made pursuant to this chapter shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and each day a violation continues to exist shall constitute a separate offense.

(2) In addition, the political subdivision or agency adopting the airport zoning regulations under this chapter may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this chapter or of airport zoning regulations adopted under this chapter or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory, or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of this chapter and of the regulations adopted and orders and rulings made pursuant thereto.

(3) The department may institute a civil action for injunctive relief in the appropriate circuit court to prevent violation of any provision of this chapter.

Commented [JD68]: Not applicable to our Code. Administered by the state.

History.—s. 13, ch. 23079, 1945; s. 232, ch. 71-136; s. 5, ch. 75-16; s. 11, ch. 2016-209; s. 34, ch. 2016-239.

333.135 Transition provisions.—

(1) Any airport zoning regulation in effect on July 1, 2016, which includes provisions in conflict with this chapter shall be amended to conform to the requirements of this chapter by July 1, 2017.

(2) Any political subdivision having an airport within its territorial limits which has not adopted airport zoning regulations shall, by July 1, 2017, adopt airport zoning regulations consistent with this chapter.

(3) For those political subdivisions that have not yet adopted airport zoning regulations pursuant to this chapter, the department shall administer the permitting process as provided in s. 333.025.

Commented [JD69]: N/A

History.—s. 12, ch. 2016-209; s. 35, ch. 2016-239.